Datatreasury Corporation v. Wells Fargo & Company et al Doc. 598

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORTION *Plaintiff/Counter-Defendant* vs. WELLS FARGO & COMPANY; WELLS FARGO BANK, NATIONAL ASSOCIATION *Defendants/Counter-Plaintiff*	§ § § § § § § § §	 No. 2:06cv72 (DF) Jury Trial Demanded

DATATREASURY'S ANSWER TO CITY NATIONAL CORPORATION AND CITY NATIONAL BANK'S COUNTERCLAIMS

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to City National Corporation and City National Bank's (collectively "City National Defendants") Counterclaims to Plaintiff's Complaint for Patent Infringement and in support thereof, states as follows:

1. In paragraph 35 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 36 of City National Defendants' Counterclaim.

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3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 37 of City National Defendants' Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 38 of City National Defendants' Counterclaim.

FIRST COUNTERCLAIM
(Declaratory Judgment of NonInfringement)

5. In paragraph 39 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

6. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 40 of the first counterclaim of City National Defendants' Counterclaims.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 41 of the first counterclaim of City National Defendants' Counterclaims.

8. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 42 of the first counterclaim of City National Defendants' Counterclaims.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity)

9. In paragraph 43 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden

of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

10. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 44 of the second counterclaim of City National Defendants' Counterclaims.

THIRD COUNTERCLAIM
(Declaratory Judgment of Unenforceability

11. In paragraph 45 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

12. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 46 of the third counterclaim of City National Defendants' Counterclaims.

FOURTH COUNTERCLAIM
(Laches and/or Statute of Limitation

13. In paragraph 47 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury

Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

14. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 48 of the fourth counterclaim of City National Defendants' Counterclaims.

FIFTH COUNTERCLAIM
(Exceptional Case)

15. In paragraph 49 of Defendants' Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Answer which are affirmative defenses by Defendant City National Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 26 through 34 as denied.

16. Plaintiff/Counter-Defendant denies that this is an exceptional case under 35 U.S.C. §285 and further denies that Defendant City National Defendants are entitled to recover reasonable attorneys fees as alleged in paragraph 50 of the fifth counterclaim of City National Defendants' Counterclaims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

A. For judgment dismissing the counterclaims with prejudice;

B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;

C. An award of the costs of this action; and

D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

_____________/S/______________________
EDWARD L. VON HOHN, Attorney in Charge
State Bar No. 09813240
ROD COOPER
State Bar No. 90001628
EDWARD CHIN
STATE BAR NO. 50511688
NIX PATTERSON & ROACH LLP
5215 N. O'Connor Blvd. Ste. 1900
Irving, Texas 75039
972.831.1188 (telephone)
972.692.5445 (facsimile)
edhohn@nixlawfirm.com
rodcooper@nixlawfrm.com
edchin@nixlawfirm.com

C. CARY PATTERSON
State Bar No. 15587000
BRADY PADDOCK
State Bar No. 00791394
ANTHONY BRUSTER
State Bar No. 24036280
R. BENJAMIN KING
State Bar No. 24048592
NIX PATTERSON & ROACH L.L.P.
2900 St. Michael Drive, Suite 500
Texarkana, Texas 75503
903.223.3999 (telephone)
903.223.8520 (facsimile)
akbruster@nixlawfirm.com
bpaddock@nixlawfirm.com
benking@nixlawfirm.com

JOE KENDALL
State Bar No. 11260700
KARL RUPP
State Bar No. 24035243
PROVOST * UMPHREY, L.L.P.
3232 McKinney Avenue, Ste. 700
Dallas, Texas 75204
214.744.3000 (telephone)
214.744.3015 (facsimile)
jkendall@provostumphrey.com
krupp@provostumphrey.com

ERIC M. ALBRITTON
State Bar ;No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
903.757.8449 (telephone)
903.758.7397 (facsimile)
ema@emafirm.com

T. JOHN WARD, JR.
State Bar No. 00794818
LAW OFFICE OF T. JOHN WARD, JR.
P.O. Box 1231
Longview, Texas 75601
903.757.6400 (telephone)
903.757.2323 (facsimile)
jw@jwfirm.com

ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT,DATATREASURY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 16th day of March, 2007.

___________/S/______________________
Edward Lewis von Hohn